UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ROBERT LEE GRAY,	)	
	)	
Petitioner-Appellant,	)	No. 81-4103
	)	
vs.	)	(D.C.No.CV80-864,
	)	CR-S-78-9-TJM)
UNITED STATES OF AMERICA,	)	
	)	MEMORANDUM
Respondent-Appellee.	)	
	)	

Submitted May 13, 1982

Appeal from the United States District Court for the Eastern District of California
District Judge Thomas J. MacBride, Presiding

Before: BROWNING, Chief Judge, MERRILL and WRIGHT, Circuit Judges.

Robert Gray appeals denial of a 28 U.S.C. Section 2255 motion to vacate his conviction for possession of cocaine with intent to distribute. This motion realleges a fourth amendment violation initially raised on direct appeal[1/] in addition to claims of Gray's incompetency to enter into the stipulation of facts used at trial and inadequate representation by

1/ United States v. Gray, 626 F.2d 102 (9th Cir. 1980).

trial counsel due to incompetence or a conflict of interest.

The fourth amendment claim cannot be raised in a collateral proceeding unless Gray was denied a full and fair opportunity to raise the issue on direct appeal. See United States v. Hearst, 638 F.2d 1190, 1196 (9th Cir. 1980). He has not specifically alleged any deficiency in his original appeal.

The claim that medication had rendered Gray incompetent at the time of the stipulation is unsubstantiated, particularly in light of his assurance to the trial court that he had not taken any mind-altering drug for a week before the stipulation. Gray fails to address the district court's carefully reasoned finding that he was not prejudiced by the alleged incompetence of his trial counsel, and he has not supported his conclusory claim that his counsel held a conflict of interest.

The judgment is AFFIRMED. The mandate will issue now. The district judge will consider the revocation of release on bail.

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ROBERT LEE GRAY, Petitioner-Appellant,	)	No. 81-4103
vs.	)	O R D E R
UNITED STATES OF AMERICA, Respondent-Appellee.	)	

Before: BROWNING, Chief Judge, MERRILL and WRIGHT, Circuit Judges.

The panel as constituted in the above case has voted to deny the petition for rehearing and to reject the suggestion for a rehearing en banc.

The full court has been advised of the suggestion for an en banc hearing, and no judge of the court has requested a vote on it. Fed. R. App. P. 35(b).

The petition for rehearing is denied and the suggestion for a rehearing en banc is rejected.